

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 03 NAIROBI 004506

SIPDIS

SENSITIVE

DEPT FOR AF/E, AF/EPS, AF/PD, AND OES/ENV
USAID FOR AFR/EA

E.O. 12958: N/A

TAGS: [PGOV](#) [SENV](#) [PREL](#) [EAID](#) [ECON](#) [KCOR](#) [KE](#)

SUBJECT: GIFTING AMBOSELI FOR VOTES - A BAD ENVIRONMENTAL,
ECONOMIC, AND POLITICAL PRECEDENT

REF: A. NAIROBI 4143 (NOTAL), B. NAIROBI 4436 (NOTAL)

Sensitive but unclassified. Not for release outside USG channels.

11. (SBU) Summary: Hoping to create support among the Maasai community for Kenya's draft constitution, on September 28, Kenya's Ministry of Tourism and Wildlife degazetted (declassified) Kenya's renowned Amboseli National Park and handed over administrative control to the local county council. This blatant political ploy was done without consultation and did not follow proper legal procedures. To curry votes, President Kibaki and his pro-draft constitution advisors have jeopardized the Kenya Wildlife Service's revenue base and its momentum for effective reform. Further, it is unclear whether this "gift" to the Maasai will actually deliver their vote. What is certain is that the move sets a dangerous precedent and has encouraged other ethnic groups to call for local control of other national parks. End Summary.

GIVE IT AWAY NOW

12. (U) As noted in ref A, one of the President Kibaki's inducements for a "yes" vote from Kenya's Maasai community for the November 21 referendum on a new constitution was the September 28 degazetting (declassification) of Amboseli National Park to a locally-controlled National Reserve, handing over the management, and, presumably, much or all of the revenue, from one of Africa's best known wildlife preserves to the Ol Kejuado County Council. While the near-and-long-term consequences of this move are not yet known, there real alarm among conservation groups, donors, the Kenya Wildlife Service (KWS), and others about the likely negative impact on Amboseli's flora and fauna. In the opinion of an umbrella conservation group focused on this action, "Amboseli National Park is a UNESCO 'Man and the Biosphere Reserve' which should mean that it is accorded the highest possible national priority in terms of its conservation . . . downgrading the Park's status to that of a National Reserve is inconsistent with that obligation." (See www.saveamboseli.net.)

13. (U) Last year Amboseli National Park generated approximately 240 million Kenyan Shillings (approximately US\$ 3.5 million) in revenue. Prior to September 28, these funds were collected by the Kenya Wildlife Service (KWS) and used, in part, to meet the revenue sharing requirements for the seven community group ranches neighboring the park and to support other national parks in the KWS system that are less well known and less able to generate revenue. It is almost certain that KWS' other parks, reserves, and conservation programs will suffer following this loss of a key income source.

A Tangled Historical Grievance

14. (U) At the same time, however, the Ol Kejuado Maasai contend, and there is ample evidence to support their claim that Amboseli National Park was illegally carved out of their titled land - the larger Amboseli Game Reserve - and as a community, they have not benefited much from Amboseli's status as one of the most visited game parks in East Africa. In 1974, Amboseli was declared "State Land," and a national park was created by Presidential decree against a backdrop of protest by local Maasai communities and the Ol Kejuado county council. To appease the community and the county council, the GOK agreed to a five-point benefit-sharing scheme: i) provision and maintenance of water for livestock outside the park, ii) an annual payment to the community from gate receipts, iii) payment of all revenue accrued from hunting, iv) building a park headquarters at edge of the park to double as a community centre and v) a grant of 400 acres in the park to the county council that could be developed to earn revenue; e.g., from tourist lodges.

15. (SBU) This scheme worked from 1976-1981 when it began

to break down. Today, only a partial sharing of revenue is practiced. Because of the GOK's failure to honor its part of the bargain, the community filed a case in court to have ownership of Amboseli returned to them. The presidential decree downgrading Amboseli's status was not, however, part of any negotiated agreement to settle the case. It simply came out of the blue as a transparent political attempt to buy the Maasai vote.

A CONSENSUS OF CONCERN

16. (U) One of the most pressing worries, now that the Park is under local control, is whether the Council will be able to enforce the current practice of minimal livestock grazing within the park. Currently, Maasai cattle and goats are permitted limited access to the park for water and when forage outside is in short supply. If controls are removed from stock entry, there will be increased competition with wildlife for pasture and the incidence of human-wildlife conflict will likely mount. Currently, KWS is still manning the gates at Amboseli without a clear mandate or revenue-sharing agreement. Should there be a push for greater livestock use of the park, it is unlikely that KWS will push back.

17. (U) Dr. David Western, one of Kenya's most renowned conservationists, was intimately involved with designing the five-point plan in favor of the Maasai in 1974 when he served as Director of KWS. He was a key speaker at an October 19 meeting of environmental donors at which he explained the history and range of issues that form the backdrop for Amboseli's management and for the moves on the part of the Maasai to recover it. While never contesting the right of the Maasai to seek redress for Government's abrogating much of the five-point agreement, he has been outspoken in his opposition to the manner in which the recent degazettement took place. "Amboseli was illegally degazetted, and puts all other national parks in jeopardy; virtually every other national park in Kenya has now come under renewed pressure for degazettement by local authorities."

18. (U) The donors were also informed of a civil suit that four conservation NGOs and one private citizen have filed with the High Court of Kenya challenging the procedures and legality of the degazettement vis--vis the provisions of the Wildlife Management and Conservation Act and the Environmental Management and Coordination Act. [Note: on October 28 a Kenya High Court Justice acted on this suit and ordered a temporary halt to the transfer. However, a previous court ruled that the suit "lacked merit," and it is not yet clear which ruling will be upheld. End note.] The environment donors resolved to develop a joint statement that will be forwarded to their respective Chiefs of Missions and Directors with the aim that these ambassadors and high commissioners will present a joint position to President Kibaki.

THE KENYA WILDLIFE SERVICE SIDELINED

19. (U) There is broad agreement that the change of Amboseli's status was done improperly. Specifically, Kenyan law requires consultations with relevant stakeholders (including KWS), a 60 day public comment period, and ratification by the National Assembly - none which took place. The apparent illegality of the move has done nothing to faze the GOK. The Ministry of Tourism and Wildlife, which took the administrative action to change Amboseli's status, claims it is resolving a historic injustice, and has simply unilaterally asserted that it has the authority to do so.

110. (SBU) For KWS, the move on Amboseli not only threatens its revenue base (22 percent of its annual income, by one estimate), but also its current efforts to secure Cabinet commitments and international partnerships for upgrading Kenya's National Parks and reserves. Three days before its degazettement, KWS Director Julius Kipng'etich was reveling in Amboseli's new label as a "World Class Park". KWS' new approach to enhance the global visibility and attractions of its Protected Areas, termed "Branding of Parks," focuses on scientific management of park ecosystems, engaging local communities to keep wildlife dispersal areas and movement corridors open, rehabilitating park infrastructure and emphasizing interpretive services to enhance a positive visitor experience.

111. (SBU) Such an approach, however, hinges on KWS control of these areas. During an October 21 meeting with the Ambassador, KWS Director Julius Kipng'etich confided that the President's "gift" of Amboseli to the County Council made him "distracted." Kipng'etich believed that his Presidential appointment to KWS was done with a clear understanding that he could pursue a reform mandate based

on sound management practices, long-term planning, and broad participation among stakeholders. He views the degazettement action as a reversion to the political patronage of previous administrations that clearly undercuts KWS' ability to reform itself. Kipng'etich confessed that the Amboseli situation, and the precedent it sets, has him considering resigning.

THE OL KEJUADO ARE NOT READY

12. (SBU) In addition to asserting its historic claim on the Amboseli land, the Ol Kejuado County Council argues that it can manage the Park effectively. It cites the "Mara Triangle" in the Maasai Mara National Reserve as an example of effective local management. However, Joyce Engoke, Senior Programmes Officer, Kenya Organization for Environmental Education (EOEE), an organization dedicated to community-based conservation, told Econoff that "giving Amboseli to the county council is a shame. The Ol Kejuado Council does not have the expertise, capacity, or ability to properly manage the park; it is not like the Maasai Mara where there is an established local conservancy to manage the park on behalf of the community". In addition to managing the park with sound practices, the County Council is challenged to equitably and transparently share the benefits accruing from Amboseli with the Maasai group ranches that surround it.

WHAT THE GOK GIVETH, IT MAY TAKETH AWAY

13. (U) Ironically, an article of the draft constitution states that lands held by district governments are 'public lands' and, as such, will be administered on behalf of local people by a National Land Commission. If the draft constitution passes, it is quite possible that the Ol Kejuado County Council could be forced to relinquish its newly-gained control over Amboseli.

COMMENT

14. (SBU) Even following other controversial vote-seeking moves, including Kibaki's gift of land title deeds in direct contradiction to a standing court order (ref B), and promises of significant pay raises to county councilors (septel), the move on Amboseli is shocking. It was done without the consent of the Ministry of Environment and Natural Resources and KWS. And yet, most observers believe the Maasai will still vote overwhelmingly against the referendum.

15. (SBU) Giving this amazing asset to a county council with no track record of effective management or fiscal accountability is no guarantee of improved livelihoods for the local communities. At the same time, the Amboseli move is a terrible precedent, possibly clearing the way for more of the kind of land grabbing and gifting that characterized the economically disastrous Moi era. If the Ministry of Tourism and Wildlife can unilaterally degazette a park, it, or other ministries, could claim the authority to create new public land designations without the input of local communities or wider stakeholders and without observing the rule of law.

BELLAMY